IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7024 OF 2005.

Suresh Ganpat Korgaonkar
and others. ... Petitioners.

V/s.

Yashwant Ramchandra Tangsali. ... Respondent.

Mr.Khandeparkar i/b. G.J.Sabnis
for the petitioners.

N.V.Walawalkar i/b. G.H.Keluskar
for the respondent.

CORAM: V.C.DAGA, J.

DATED: 12th December 2005.

P.C.:

. Heard learned counsel for the petitioner.

2. Both the courts below have concurrently found that the respondent/ original plaintiff has made out a case for bonafide requirement. Learned counsel appearing for the petitioners tried to contend that part of the premises being House No.668A (upper floor) is vacant and is in possession of the landlord. No pleadings in this respect are to be found in the written statement filed by the petitioners. Even otherwise, that by itself cannot be said to meet the need of 10 family members of the landlord consisting of two brothers. The landlord is expected to have a reasonable accommodation in his own house. At

this stage, it is not in dispute that the plaintiff-landlord is staying in the tenanted premises. The lower appellate Court has categorically observed in this behalf in paras-21, 22 and 23 of the impugned order.

3. In this view of the matter, this is not a fit case warranting interference with the impugned order by this Court in its extra ordinary writ jurisdiction. This Court not being a court of appeal is not expected to reappreciate the evidence on record. The impugned order is not a perverse order.

4. The petition is, therefore, dismissed in limine with no order as to costs.

5. At this stage, learned counsel appearing for the petitioners prayed for time to vacate the suit premises. This prayer was strongly opposed by learned counsel for the respondent. However, I feel that considering a long attachment of the petitioners with the suit premises, it will be in the interest of justice to grant reasonable time to the petitioners to vacate the suit premises. Accordingly nine months time from today is granted to the petitioners to vacate suit premises, however, subject to furnishing usual undertaking of all the family members of the petitioners to

this Court, specifically, mentioning therein that during this period they shall not create any third party interest in the suit premises. In addition to this, the petitioners shall continue to pay the agreed amount of rent to the respondent-landlord by way of compensation during this period. Undertaking to be filed within two weeks from today, failing which, it will be open to the respondent-landlord to execute the decree in accordance with law.

(V.C.DAGA, J.)